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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
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11 ST. MICHAEL BALZARINI,  
12 Plaintiff,

13 v.

14 RALPH DIAZ et al.,  
15 Defendants.  
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Case No. 5:18-cv-01962-RGK (MAA)

**ORDER ACCEPTING FINDINGS  
AND RECOMMENDATIONS OF  
UNITED STATES MAGISTRATE  
JUDGE**

17 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Fourth Amended  
18 Complaint (ECF No. 15); the briefs and documents filed in support of and in  
19 opposition to Plaintiff's Request to File a Supplemental Pleading (ECF No. 81),  
20 Plaintiff's Motion for Court to Grant Supplemental Pleadings and Claims (ECF No.  
21 87), and Defendants' Motion to Dismiss the Fourth Amended Complaint (ECF No.  
22 44); the other records on file herein; and the Second Amended Report and  
23 Recommendation of United States Magistrate Judge (ECF No. 97). Further, the  
24 time for filing objections has expired and no objections have been made. The Court  
25 accepts the findings and recommendations of the Magistrate Judge.

26 **IT THEREFORE IS ORDERED** that:

- 27 (1) The Second Amended Report and Recommendation of United States  
28 Magistrate Judge is **ACCEPTED**;

- 1 (2) Plaintiff's Request to File a Supplemental Pleading is **DENIED**;
- 2 (3) Plaintiff's Motion for Court to Grant Supplemental Pleadings and
- 3 Claims is **DENIED**;
- 4 (4) Defendant's Motion to Dismiss the Fourth Amended Complaint is
- 5 **GRANTED IN PART AND DENIED IN PART** as follows:
- 6 (a) Defendants' Motion based on failure to exhaust administrative
- 7 remedies is **DENIED** without prejudice;
- 8 (b) Plaintiff's claims against Defendants in both their official and
- 9 individual capacities are **DISMISSED** with prejudice and
- 10 without leave to amend;
- 11 (c) Defendants' Motion as to qualified immunity, punitive damages,
- 12 and injunctive relief is **DENIED** as moot;
- 13 (5) The Fourth Amended Complaint and this lawsuit are **DISMISSED**;
- 14 (6) Judgment shall be **ENTERED DISMISSING** this lawsuit **WITH**
- 15 **PREJUDICE AND WITHOUT LEAVE TO AMEND**.

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18 DATED: February 8, 2022



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R. GARY KLAUSNER  
UNITED STATES DISTRICT JUDGE